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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,810	01/12/2004	Michael L. LaJoie	61575-1035	2981
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EXAMINER				
ZHONG, JUN FEI				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/755,810

Applicant(s)

LAJOIE ET AL.

Examiner

JUN FEI ZHONG

Art Unit

2426

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 29-37, 58, 59, 61 and 62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 29-37, 58-59, 61-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/8/2008 has been entered.

Response to Amendment

2. This action is responsive to an Amendment filed 9/9/2008. Claims 1-9, 29-37, 58-59, 61-62 are pending. Claims 1, 6, 29, 34, 58-59, 61-62 are amended. Claims 57, 60 are cancelled.

Response to Arguments

3. Applicant's arguments with respect to claims 1-9, 29-37, 58-59, 61-62 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-9, 29-37, 58-59 and 61-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over McElhatten et al. (Patent # US 7073189) in view of Gammie (Patent # US 5237610), further in view of Donlan et al. (Pub # US 2004/0088734), further in view of Hrastar et al. (Patent # US 6272150), and further in view of Menard et al. (Pub # US 2002/0177428).

As to claim 1, McElhatten discloses a system comprising:

a digital cable host device (e.g., set top terminal 158; Fig. 1);

a communications network at least initially having a connection to the digital cable host device (e.g., network 140);

a server (e.g., headend 105) comprising an interface for receiving, from the digital cable host device, signals through the communications network, the signals indicating continuity of the connection, each of the signals containing information identifying the device (e.g., processor 119 receiving heartbeat signal through network 140; i.e., terminal 158-1 sends a heartbeat signal to headend which contains MAC address of terminal 158-1) (see col. 10, lines 30-42); and

a database associated with the server (see col. 5, lines 35-58; col. 7, lines 14-20);

wherein:

the digital cable host device is configured to generate the signals with the information identifying the device (e.g., terminal 158-1 sends a heartbeat to

headend, and the heartbeat contains MAC address of terminal 158-1) (see col. 10, lines 30-42); and

the server is configured such that:

responsive to receipt of a first one of the signals, the server determines whether a second one of the signals is received within a period from the receipt of the first signal (e.g., when processor 119 no longer receives heartbeat, processor 119 halted the transmission) (see col. 10, lines 30-42); and

McElhatten fails to disclose a point-of-deployment (POD) module in set top terminal. A POD (cable card) module is well known in the set top art for authentication purpose.

Gammie discloses a host device having an interface for coupling with a point-of-deployment (POD) module (e.g., security module 719 or 714) for providing conditional access to selected programming content (see col. 2, lines 42-65; col. 3, lines 6-23; col. 9, lines 42-46; col. 14, lines 4-29; col. 16, lines 3-25; col. 18, lines 36-67; Fig. 1, 4, 6, and 7). And a database being populated based on an authorization process for the digital cable host device and the point-of-deployment module (e.g., check if the first and second secret serial number match or not) (see abstract; col. 4, lines 1-7; col. 6, lines 19-34; col. 7, lines 5-27; col. 14, lines 4-29; Fig. 5-7);

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the security module as taught by Gammie to the set top

terminal of McElhatten for the benefits of increase security level of the service, only authorized user can receive the service.

McElhatten does not specifically disclose the database comprising a record with contact information for a user of the digital cable host device together with the information identifying the device. Each service provider inherently has a database associate with user contact information for billing purpose.

Donlan discloses the database comprising a record with contact information for a user of the digital cable host device together with the information identifying the device (see paragraph 0048; Fig. 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the database with user contact information as taught by Donlan to the database of McElhatten in order for the service provide to send bill or contact subscriber for new/special programs to increase the revenue of service provide.

McElhatten, Gammie and Donlan fail to disclose generating an alert to an operator when the system detects no connection with the set top box.

Hrastar discloses generating an alert to an operator (e.g., using different color to indicate device's status) (see col. 21, lines 1-67);

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide alerting operator as taught by Hrastar to the set top terminal of McElhatten in order to provide the user of the network management station is empowered to make better decisions regarding causes and effect of anomalies in the network, as well as improving the understanding of the network for growth planning,

potential failure scenarios, routine diagnostic tests, maintenance and the like (see col. 3, lines 30-40).

McElhatten, Gammie, Donlan and Hrastar fail to disclose an operator of the communications network to contact a user of the device if it is determined that the second signal is not received within the period.

Menard discloses an operator of the communications network to contact a user of the device if it is determined that the second signal is not received within the period (e.g., contact user when alarm received) (see paragraph 0075; Fig. 6), the alert including the contact information for the user from the database, the contact information being identified based on the information identifying the device (e.g., when alarm is received the system look up account information) (see paragraph 0081).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have verified alarm signal as taught by Menard to the set top terminal of McElhatten as modified by Hrastar in order to verify authentication of the devices when a alarm signal is received for the benefits of protecting service provider.

As to claim 2, McElhatten discloses the system according to claim 1, wherein the communications network includes a two-way multichannel delivery network (e.g., M transmission channels) (see col. 9, lines 30-49).

As to claim 3, McElhatten discloses the system according to claim 2, wherein the delivery network includes a cable TV network (see col. 1, lines 12-15).

As to claim 4, McElhatten discloses the system according to claim 3, wherein the cable TV network includes a hybrid fiber coaxial (HFC) cable network (see col. 5, lines 29-34).

As to claim 5, McElhatten discloses the system according to claim 3, wherein the device receives programming content from the communications network (e.g., terminal 158-1 receives program stream from headend) (see col. 10, lines 10-29).

As to claim 6, Gammie discloses the point-of-deployment (POD) module provides conditional access to selected programming content (see col. 2, lines 42-65; col. 3, lines 6-23; col. 9, lines 42-46; col. 14, lines 4-29; col. 16, lines 3-25; col. 18, lines 36-67; Fig. 1, 4, 6, and 7).

As to claim 7, Gammie discloses the system according to claim 6, wherein the selected programming content is selected by the system (e.g., services provider authorized program access right for user) (see col. 2, lines 42-65; col. 3, lines 6-23; col. 9, lines 42-46; col. 14, lines 4-29; col. 16, lines 3-25; col. 18, lines 36-67; Fig. 1, 4, 6, and 7).

As to claim 8, McElhatten discloses the system according to claim 6, wherein the selected programming content includes video-on-demand (VOD) content (see col. 13, lines 6-28).

As to claim 9, McElhatten discloses the system according to claim 1, wherein the information includes a serial number pre-assigned to the device (e.g., MAC address of terminal 158-1) (see col. 10, lines 32-35).

As to claim 58, McElhatten discloses the system according to Claim 1, wherein the server is further configured such that:

if it is determined that the second signal is received within the period, the server determines whether the information identifying the device, contained in the second signal, matches the host device identifier from the record (e.g., when processor 119 receives heartbeat from user terminal) (see col. 10, lines 30-42); and

Gammie disclose the record comprises a host device identifier (see col. 14, lines 1-29), responsive to determining that the information identifying the device, contained in the second signal, does not match the host device identifier from the record (see col. 2, lines 42-65; col. 3, lines 6-23; col. 9, lines 42-46; col. 14, lines 4-29; col. 16, lines 3-25; col. 18, lines 36-67; Fig. 1, 4, 6, and 7),

Menard discloses the server prompts the operator to investigate a potential unauthorized host replacement (e.g., call user's telephone number on record to verify),

each of the signals containing information identifying the device (see paragraph 0075; Fig. 6).

As to claim 59, McElhatten discloses the system according to Claim 58, wherein the server is further configured such that, responsive to determining that the information identifying the device (e.g., when processor 119 receives heartbeat from user terminal) (see col. 10, lines 30-42),

Gammie discloses contained in the second signal, does not match the host device identifier from the record, the server communicates with the point-of-deployment (POD) module to limit access to the network (see col. 2, lines 42-65; col. 3, lines 6-23; col. 9, lines 42-46; col. 14, lines 4-29; col. 16, lines 3-25; col. 18, lines 36-67; Fig. 1, 4, 6, and 7).

As to claims 29-37, 61-62 they contain the limitations of claims 1-9 and 58-59 and are analyzed as previously discussed with respect to claims 1-9 and 58-59 above.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hendricks et al. (Patent # US 7134131) is cited to teach digital broadcasting billing system.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jun Fei Zhong whose telephone number is 571-270-1708. The examiner can normally be reached on Mon-Fri, 7:30-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on 571-272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JFZ
12/24/2008

/Annan Q Shang/

Primary Examiner, Art Unit 2424